

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

Criminal No. 1:98cr26

MATTHEW DAVID MOORE
Defendant.

ORDER/OPINION

On the 13th day of November 2006, came the defendant, Matthew David Moore, in person and by his counsel, Brian J. Kornbrath, and also came the United States by its Assistant United States Attorney, Shawn Morgan, pursuant to a Petition for Action on Conditions of Pretrial Release filed in this case on May 16, 2006, and an Amended Petition filed on November 9, 2006, alleging Defendant:

- 1) Violated the Special Condition that he participate in a program of testing, counseling, and treatment for the use of alcohol and drugs if directed by the Probation Officer; and
- 2) Violated the Mandatory Condition the he not commit another federal, state or local crime.

Defendant's Probation Officer also noted that Defendant had been previously revoked for being convicted of new offenses and failure to report for drug testing; and had previous violations consisting of marijuana use.

Prior to the taking of evidence, Defendant waived the preliminary hearing in writing, thereby conceding probable cause exists to forward this matter to Chief United States District Judge Irene M. Keeley.

The Court then explained the charges contained in the Petition and Amended Petition and the effect of the proposed waiver to Defendant and inquired of him as to the voluntariness of his

decision to waive the Preliminary Hearing regarding the allegations in the Petition and Amended Petition. From the colloquy between the Court and the defendant, the Court concluded Defendant's decision to waive the Preliminary Hearing was knowingly and voluntarily made.

Upon consideration of all which, the Court finds there is probable cause that the Defendant violated the conditions of his supervised release as alleged in the Petition for Action on Conditions of Pretrial Release filed May 16, 2006, and the Amended Petition filed November 9, 2006. It is therefore **ORDERED** that Defendant is bound over for a full hearing before Chief United States District Judge Irene M. Keeley regarding the allegations contained in the Petition and Amended Petition.

It is further **ORDERED** that Defendant be remanded to the custody of the United States Marshal pending further proceedings in this matter.

The Clerk of the Court is directed to send a copy of this order to counsel of record.

DATED: November 14, 2006

/s/ *John S. Kaul*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE